

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA

Benny W. Franklin,	)	
	)	
Petitioner,	)	
	)	Civil Action No. 4:23-cv-6591-BHH
v.	)	
	)	<b><u>ORDER</u></b>
Warden, F.C.I., Bennettsville,	)	
	)	
Respondent.	)	
_____	)	

This matter is before the Court upon Petitioner Benny W. Franklin’s (“Plaintiff”) pro se petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241. On December 15, 2023, Respondent filed a motion to dismiss, or in the alternative, for summary judgment. (ECF No. 14.) In accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02, D.S.C., the matter was referred to a United States Magistrate Judge for preliminary review.

After considering the parties’ arguments and determining that Petitioner has been released on home confinement and has thus received the relief he requests in his petition, the Magistrate Judge issued a report and recommendation (“Report”) on August 14, 2024, recommending that the Court dismiss this petition as moot. (ECF No. 24.) Attached to the Magistrate Judge’s Report was a notice advising the parties of the right to file written objections to the Report within fourteen days of being served with a copy. To date, no objections have been filed. Also, on August 27, 2024, the copy of the Report and Recommendation that was mailed to Petitioner was returned as undeliverable, and Petitioner has not provided an updated mailing address to the Court. (See ECF Nos. 26, 27.)

The Magistrate Judge makes only a recommendation to the Court. The

recommendation has no presumptive weight, and the responsibility to make a final determination remains with the Court. *Mathews v. Weber*, 423 U.S. 261 (1976). The Court is charged with making a *de novo* determination only of those portions of the Report to which specific objections are made, and the Court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge, or recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1). In the absence of specific objections, the Court reviews the matter only for clear error. See *Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (stating that “in the absence of a timely filed objection, a district court need not conduct a *de novo* review, but instead must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.’”) (quoting Fed. R. Civ. P. 72 advisory committee’s note).

Here, because no party has filed objections to the Report, the Court has reviewed the record, the applicable law, and the findings and recommendations of the Magistrate Judge for clear error. After review, the Court finds no clear error and fully agrees with the Magistrate Judge’s analysis. **Accordingly, the Court adopts the Magistrate Judge’s Report (ECF No. 24); the Court dismisses this action as moot; and the Court therefore also finds moot Respondent’s motion to dismiss, or in the alternative, for summary judgment (ECF No. 14).**

**IT IS SO ORDERED.**

/s/Bruce H. Hendricks  
United States District Judge

September 4, 2024  
Charleston, South Carolina